



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,920	03/30/2001	Samuel Daniel Dull III	ROC920010099US1	7671
<div>7590 12/05/2007</div> <div>Grant A. Johnson IBM Corporation, Dept. 917 3605 Highway 52 North Rochester, MN 55901-7829</div> <div>EXAMINER DAO, THUY CHAN</div> <div>ART UNIT PAPER NUMBER</div> <div>2192</div> <div>MAIL DATE DELIVERY MODE</div> <div>12/05/2007 PAPER</div>				

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

AK

Office Action Summary

Application No.

09/821,920

Applicant(s)

DULL ET AL.

Examiner

Thuy Dao

Art Unit

2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5,12-14,16,18 and 21-26 is/are pending in the application.
- 4a) Of the above claim(s) 3,20,27 and 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1,2,4,5,12-14,16,18 and 21-26 is/are allowed.
- 6) ☒ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on October 10, 2007 has been entered.

2. Claims 1-2, 4-5, 12-14, 16, 18, and 21-26 have been examined.

Response to Amendments

3. Per Applicants' request, claims 1, 5, 12-14, 16, 18, and 21-25 have been amended and claims 3, 20, and 27-28 have been canceled.

4. The objection to drawings is withdrawn in view of Applicants' amendments.

5. The objection to the specification is withdrawn in view of Applicants' amendments.

Response to Arguments

6. Applicants' arguments have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

7. Claims 5, 16, 22, and 26 are objected to because of minor informalities.

Claims 5 and 22: the phrase in line 2 is considered to read as - "...transmitted from said [[first]] second computer system to said [[second]] first computer system ...- -;

Claim 16: the phrase in lines 3 and 16 is considered to read as - "...the first computer system ...- -; and

Claim 26: "A method for upgrading a computer program ..., the method comprising configuring the computer system to perform the method of claim 1", wherein the method of claim 1 is also "[a] method of upgrading a computer program ..." (emphasis added).

Correction is required.

Claim Rejections – 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-2, 4-5, 12-14, 16, 18, and 21-26 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,493,871 to McGuire et al. (art made of record, hereinafter "McGuire").

Claim 1:

McGuire discloses *a method of upgrading a computer program installed on a first computer system, the computer program including a script processing module, the method comprising:*

receiving a plurality of upgrade objects associated with the computer program (e.g., FIG. 12, Master Script 196, Client 72 requesting and receiving a plurality of Supp. Reply 200, col.15: 5-38; col.7: 8-56),

each upgrade object including a respective script comprising a plurality of script instructions of a pre-defined script instruction set adapted for use by the script processing module to upgrade the computer program (e.g., FIG. 12, each Supp. Reply 200 has a respective Component Scripts 198, col.15: 21-28; col.7: 57 – col.8: 19),

the script being not independently executable without the script processing module (e.g., FIG.12, Master Script 196 and Component Scripts 198 being not independently executable without Setup Program 194 and Initial Setup Package 192; col.15: 5-38; col.8: 1-50),

each said upgrade object being generated on a second computer system remote from said first computer system and transmitted from said second computer system to said first computer system (e.g., FIG. 12, each Supp. Reply 200 being generated/transmitted from Update Setup Server 76, col.8: 51 – col.9: 32);

wherein each said upgrade object contains a respective sequence number (e.g., each component in Supp. Reply 200 has a respective version number, col.10: 4-37; col.8: 1-50,

wherein at least one said upgrade object contains at least one respective prerequisite (e.g., each component may contain a “needed file” list, col.9: 17-51; FIG. 5, col.10: 24-67; col.7: 24 – col.8: 19), and

wherein not all said upgrade objects have the same at least one respective prerequisite; with respect to each said upgrade object containing at least one respective prerequisite, automatically determining whether the at least one respective prerequisite has been met (e.g., each component may or may not contain a “needed file” list, col.10: 4-23; col.9: 9-51); and

performing an upgrade of said computer program by compiling and executing each said script on said first computer system with the script processing module (e.g., col.15: 9-38; col.10: 4-65);

wherein, with respect to each said upgrade object containing at least one respective prerequisite, the respective script contained in the object is not compiled and executed until the respective at least one prerequisite contained in the object has been met (e.g., col.13: 6-47; col.11: 4-32), and

wherein the at least one prerequisite allows at least one script to be executed out of sequence (e.g., col.15: 19-28; col.11: 24-48).

Claim 2:

The rejection of claim 1 is incorporated. McGuire also discloses *instructing the script processing module to execute the script (e.g., col.8: 1-50; col.15: 5-38).*

Claim 4:

The rejection of claim 1 is incorporated. McGuire also discloses *automatically reporting from said first computer system to said second computer system that the script has been executed* (e.g., FIG. 9, col.13: 42 – col.14: 28).

Claim 5:

The rejection of claim 1 is incorporated. McGuire also discloses *the plurality of upgrade objects are transmitted from said second computer system to said first computer system by electronic mail* (e.g., col.14: 12-67).

Claim 12:

McGuire discloses *a method of upgrading a computer program installed on a first computer system, the computer program including a script processor, the method comprising:*

creating a plurality of upgrade objects associated with the computer program on a second computer system remote from said first computer system (e.g., col.15: 5-38; col.7: 8-56),

each said upgrade object including a respective script comprising a plurality of script instructions of a pre-defined script instruction set adapted for use by the script processor to upgrade the computer program (e.g., col.15: 21-28; col.7: 57 – col.8: 19),

the script being not independently executable without the script processor (e.g., FIG. 12 and related text; and col.8: 1-50);

wherein each said upgrade object contains a respective sequence number, wherein at least one said upgrade object contains at least one respective prerequisite (e.g., col.8: 51 – col.9: 32; col.10: 4-37; col.8: 1-32), and

wherein not all said upgrade objects have the same at least one respective prerequisite, each prerequisite to be determined as being met by said script processor before compiling and executing the script contained in the corresponding upgrade object (e.g., col.10: 24-67; col.7: 24 – col.8: 19);

transmitting the plurality of upgrade objects from the second computer system to the first computer system (e.g., col.10: 4-23; col.9: 9-51); and

instructing an end user to perform an upgrade of said computer program by compiling and executing each said script with the script processor (e.g., col.15: 9-38; col.10: 4-65);

wherein, with respect to each said upgrade object containing a least one respective prerequisite, the respective script contained in the object is not compiled and executed until the respective at least one prerequisite contained in the object has been met (e.g., col.13: 6-47; col.11: 4-32), and

wherein the at least one prerequisite allows at least one script to be executed out of sequence (e.g., col.15: 19-28; col.11: 24-48).

Claim 13:

The rejection of claim 12 is incorporated. McGuire also discloses *at least one said upgrade object presents the end user with instructions to perform a task (e.g., FIG. 9, col.13: 42 – col.14: 28).*

Claim 14:

The rejection of claim 13 is incorporated. McGuire also discloses *at least one said upgrade object prompts the end user to indicate that the task has been performed (e.g., col.14: 12-67).*

Claim 16:

McGuire discloses *a method of upgrading a computer program on a first computer system, comprising:*

(i) installing a computer program on the computer system, the computer program including a script processing module (e.g., col.15: 5-38; col.7: 8-56);

(ii) receiving a plurality of upgrade objects associated with the computer program (e.g., col.15: 21-28; col.7: 57 – col.8: 19),

each said upgrade object including a respective script comprising a plurality of script instructions of a pre-defined script instruction set adapted for use by the script processing module (e.g., col.8: 1-50; col.10: 4-37) and

a respective sequence number, at least one said upgrade object containing a prerequisite field containing one or more prerequisites for executing the script (e.g., FIG. 12, Setup Program 194, Master Script 196; FIG. 5, the "needed file" list),

wherein not all said upgrade objects have the same at least one respective prerequisite, each said upgrade object being generated on a second computer system remote from said first computer system and transmitted from said second computer system to said first computer system (e.g., col.8: 51 – col.9: 32); and

(iii) instructing the computer program to process each said upgrade object (e.g., col.13: 6-47; col.11: 4-32), whereby each said upgrade object causes the first computer system to:

if the upgrade object contains one or more prerequisites, determine if the one or more prerequisites have been met (e.g., col.9: 17-51; col.10: 24-67; col.7: 24 – col.8: 19); and

instruct the script processing module to execute the script if all prerequisites, to the extent there are any, contained in the upgrade object have been met; and report that the script has been executed (e.g., col.15: 9-38; col.10: 4-65);

wherein the at least one prerequisite allows at least one script to be executed out of sequence (e.g., col.15: 19-28; col.11: 24-48).

Claim 18:

McGuire discloses a method of installing a computer program into an instruction processing environment on a first computer system, the instruction processing environment including a script processing module, the method comprising:

receiving a plurality of installation objects associated with the computer program (e.g., col.15: 5-38),

each said installation object including a respective script comprising a plurality of script instructions of a pre-defined script instruction set adapted for use by the script processing module to install the computer program into the instruction processing environment on said first computer system (e.g., col.15: 21-28; col.7: 8 – col.8: 19),

the script being not independently executable without the script processing module (e.g., FIG. 12 and related text),

each said installation object being generated on a second computer system remote from said first computer system and transmitted from said second computer system to said first computer (e.g., col.8: 51 – col.9: 32); and

wherein each said installation object contains a respective sequence number, wherein at least one said installation object contains at least one respective prerequisite, and wherein not all said installation objects have the same at least one respective prerequisite; with respect to each said installation object containing at least one respective prerequisite, automatically determining whether the at least one respective prerequisite has been met (e.g., col.10: 4-37; col.8: 1-50; col.7: 24 – col.8: 19); and

installing said computer program into said instruction processing environment by compiling and executing each said script with the script processing module (e.g., col.10: 4-23; col.9: 9-51; col.15: 9-38);

wherein, with respect to each said installation object containing at least one respective prerequisite, the respective script contained in the installation object is not compiled and executed until the respective at least one prerequisite contained in the installation object has been met, and wherein the at least one prerequisite allows at least one script to be executed out of sequence (e.g., col.13: 6-47; col.11: 4-48; col.15: 19-28).

Claim 21:

The rejection of claim 18 is incorporated. McGuire also discloses *reporting that at least one said script has been executed (e.g., col.13: 42 – col.14: 28).*

Claim 22:

The rejection of claim 18 is incorporated. McGuire also discloses *each said installation object transmitted from said second computer system to said first computer system by electronic mail (e.g., col.14: 12-67).*

Claim 23:

McGuire also discloses *a method of installing a computer program into an instruction processing environment on a first computer system, the instruction processing environment including a script processing module, the method comprising:*

creating a plurality of installation objects associated with the computer program on a second computer system remote from said first computer system (e.g., col.15: 5-38; col.7: 8-56),

each said installation object including a respective script comprising a plurality of script instructions of a pre-defined script instruction set adapted for use by the script processing module to install the computer program into the instruction processing environment on said first computer system, (e.g., col.7: 57 – col.8: 19)

the script being not independently executable without the script processing module (e.g., FIG. 12 and related text);

wherein each said installation object contains a respective sequence number, wherein at least one said installation object contains at least one respective prerequisite, and wherein not all said installation objects have the same at least one respective prerequisite, each prerequisite to be determined as being met by said script processing module before compiling and executing the script contained in the corresponding installation object (e.g., col.8: 51 – col.9: 32; col.10: 4-37; col.7: 24 – col.8: 32);

transmitting the plurality of installation objects from the second computer system to the first computer system (e.g., col.15: 9-38; col.10: 4-65); and

instructing an end user to install said computer program into said instruction processing environment by compiling and executing each said script with the script processing module (e.g., col.13: 6-47; col.11: 4-32);

wherein, with respect to each said installation object containing a least one respective prerequisite, the respective script contained in the installation object is not compiled and executed until the respective at least one prerequisite contained in the installation object has been met, and wherein the at least one prerequisite allows at least one script to be executed out of sequence (e.g., col.15: 19-28; col.11: 24-48).

Claim 24:

The rejection of claim 23 is incorporated. McGuire also discloses *at least one said installation object presents the end user with instructions to perform a task (e.g., col.15: 5-38).*

Claim 25:

The rejection of claim 24 is incorporated. McGuire also discloses *at least one said installation object prompts the end user to indicate that the task has been performed (e.g., col.13: 42 – col.14: 28).*

Claim 26:

Claim 26 recites the same limitations as those of claim 1, wherein all claimed limitations have been addressed and/or set forth above. Therefore, as the references teach all of the limitations of the above claim, they also teach all of the limitations of claim 26.

Conclusion

10. Any inquiry concerning this communication should be directed to examiner Thuy Dao (Twee), whose telephone is (571) 272 8570. The examiner can normally be reached on every Tuesday, Thursday, and Friday from 6:00AM to 6:00PM.

Art Unit: 2192


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam, can be reached at (571) 272 3695.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273 8300.

Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is (571) 272 2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

T. Dao



TUAN DAM
SUPERVISORY PATENT EXAMINER